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U.S. DISTRICT COURT  
DISTRICT OF MASS.C.A. NO. 04-10033-NMGDURAN IRVIN, A Massachusetts House  
of Correction Inmate at the South Bay  
House of Correction.04-10033-NMG  
Referred to MJ JL Alexander

PLAINTIFF

COMPLAINT

v.

ANDREA BABWAL, MARIE LOOKHART,  
MARY ELLEN MASTROBILLO,

JURY TRIAL DEMAND

DEFENDANT

This is a Civil rights action filed by Duran Irvin, a House of Correction Inmate, for damages and injunctive relief under 42 U.S.C. § 1983, a Haying Failure To Protect, Assault and battery in violation of The Eighth Amendment to the United States Constitution and Deprivation of Exercise, in violation of The Due process Clause of The Fourteenth Amendment to the Constitution. The plaintiff also alleges the torts of assault and battery and negligence.

JURISDICTION

1. The Court has Jurisdiction over the plaintiff's claims of violation of Federal Constitutional rights under 42 U.S.C. §§ 1981(a) and 1983.
2. The Court has supplemental Jurisdiction over the plaintiff's state Law torts claims under 28 U.S.C. § 1337.

PARTIES

3. The plaintiff, Darren Irvin, is incarcerated at the South Bay House of Correction (S.H.O.C.) during the events described in this Complaint.

4. Defendant Andrea Cabrant, is the Sheriff of The South Bay House of Correction in charge of overseeing the personnel and administrative staff level. She is sued in her individual and official capacities.

5. Defendant Maria Lockhart, is the Deputy of operation at The Suffolk County House of Correction (S.C.H.C.) and is generally responsible for ensuring the care and safety of all inmates and staff personnel level. She is sued in her individual and official capacities.

6. Defendant Mary Ellen Mastropiatti, is the Deputy Superintendent of The Suffolk House of Correction (S.H.O.C.) and is in charge of the supervision and discipline of all Correctional staff at said Facility. She is sued in her individual and official capacities.

7. All the Defendants have acted, and continue to act, under Color of State Law at all times relevant to this Complaint.

FACTS

8. On December 15, 2003, The plaintiff who is presently in the protective custody unit due to an extensive anxiety situation at the Suffolk House of Correction General Population with numerous inmates, was told by his unit officer that he had to report to the hospital unit to be seen by medical staff.

9. The plaintiff, P.P. Then refused to go the hospital unit due to the lack of Correctional Supervision and proximity of inmates that was and would be in the presence of P. The plaintiff, and that such mingling of plaintiff, P.P. and inmates in general population, would jeopardize the plaintiff's well being.

10. The Plaintiff, P.P. was when told by the unit officer Mr. Hall, that he had no option to refuse an medical appointment and that he had to sign an medical Inmate waiver Form upon his arrival in the hospital unit, in which plaintiff, P.P. contested, but was threatened with punitive disciplinary action if plaintiff did not comply.

11. The plaintiff, P.P. Then was encouraged by a Correctional Officer to the hospital unit, and was asked to accommodate another inmate who was waiting to be seen by a nurse sitting on a bench. Plaintiff, P.P. then complied and sat on the bench beside a inmate from general population, under the impression that he would be closely monitored by Correctional Staff.

12. The plaintiff, P.P. and its a protective custody inmate, contested being in the presence of those inmates, considered in general population and the failure of staff to immediately separate plaintiff, P.P. from the presence of those from general population, would put him in harm's way and could result in plaintiff, P.P. Sustaining irreparable harm, and that staff had a duty to protect prisoners from assault by other inmates.

13.

As plaintiff, P.P. requested to be unanswered by Correctional Staff who had a duty to protect the plaintiff, P.P. from physical assault from other inmates, plaintiff, P.P. was placed in the presence of numerous inmates who were in general

14. population, while Correctional Staff who were responsible for overseeing the plaintiff's safety, was occupied taking care of inmates in another section of the Jail, Subjecting plaintiff to hours of verbal abuse, verbal assault and threats of physical violence by inmates who resided in general population of danger Barber.

15. Plaintiff then returned to his unit (I-5-1), and implemented an Institutional Performance addressed to the Sheriff Mr. Andrew Lubarsky, Complaining of the lack of staff monitoring protective Custody inmates to the hospital unit, and then leaving said inmates alone in the presence of those inmates who resided in general population.

No, The plaintiff has on a daily basis been speaking to several Deputies Superintendents in attempt's to bring an end to such a dangerous operation the it could result in tragedy by an inmate sustaining serious injuries, and that inmates have been forced to undertake such routine for some time now.

16. On December 3, 2003, The protective Custody unit was Locked down due to Complainants with the institutions elevators, in which at such time, all inmates were, and continue to be Locked down and deprived of Showers, Telephone Calls, access to the Law Library and Educational programs; and visitation.

18. The plaintiff as well as other inmates to the protective Custody unit, have also been Subjected to threats of physical assault, illegal Cell Searches in result of the disposal and destruction of personal property, and physical abuse and assault, as well as being verbally abused by numerous Correctional Officers. These acts of defiance by several

19. Corrections Officers and further abuse by the Administrative personnel Level by Continuing to overlook these serious matters, have resulted in an increase of inmate on inmate assaults.

20. The plaintiff who has a pending Criminal matter Sealed and for long Trial, has unsuccessfully been unable to do legal research on his present matters, due to the defendant's continued deprivation of plaintiff's inalienable Constitutional rights protected by the Constitution.

End of Complaint

Claims For Relief

21. The actions of the Defendants Embree, Lockhart and Mavrerilli, in failing to bring an end to the known pattern of physical and verbal abuse of inmates by Corrections Officers contributed deliberate indifference, and contributed to and proximately caused the above described violation of Eighth Amendment Rights and assault and battery.

22. The Failure of Defendants Embree, Lockhart, and Mavrerilli, to Separate all protective custody unit inmates from these inmates of general population, contributed deliberate indifference, and further denied the plaintiff the considered quarantine under the equal protection laws, and displayed deliberate indifference and Reckless disregard for the plaintiff's safety by failing to get "reasonably" in tempo to the crime.

23. The actions of Defendants Embree in Staying the Plaintiff's Constitutional infringement of plaintiff's Eighth Amendment rights to physical exercise, Constituted, Cruel and unusual punishment in violation of the eighth Amendment.

24. when they posed an unreasonable threat to the plaintiff's physical and mental health and denied the plaintiff due process of law in violation of the Fourteenth Amendment to the United States Constitution.

25. The actions of defendant's DeBord, Lockhart and Mastromilli, in failing to provide the plaintiff with access to the Law Library, access to legal materials, and an adequate legal assistance, violated the Due process clause, the equal protection clause, the First Amendment, and the privilege and Immunities clauses of Article IV of the Constitution.

Relief Requested

Wherefore, Plaintiff requests that the Court grant the following relief:

1. Enter a declaratory Judgment stating that: Defendant DeBord's Failure to take action to stop the deprivation of the plaintiff's rights under the Eighth Amendment, and Fourteenth Amendment to the United States Constitution and Constitution.
2. Defendant Lockhart's actions in failing to provide adequate access to Courts and exercise and freedom from violence, to the plaintiff violated, and continue to violate, the plaintiff's rights under the eighth Amendment to the United States Constitution.

B. Issues an Injunction ordering Defendants LaBrowd, Lockhart and Mastrovilli or their agents to:

1. Release The plaintiff from punitive unduly Prolonged Treatment and punishment From 24 hour Confinement to his cell, with restoration of all rights and privileges;
2. Immediately arrange For all inmates to have an escort From and to hospital unit, and a designated area to hold all protective Custody Inmates during their medical appointments;
3. Immediately compensate the plaintiff \$P(7 1/2) days of earned Payroll, For the deprivations of Curriculum activities and programs afforded to the plaintiff.

C. Award compensatory damages in the following amounts:

1. \$ 100,000 Jointly and Separately against Defendants LaBrowd, Lockhart and Mastrovilli, For The physical and emotional injury sustained as a result of the plaintiff's

2. \$ 50,000 Jointly and Separately against Defendants LaBrowd, Lockhart and Mastrovilli, For the punishment and emotional injury resulting from their denial of due process in connection with the plaintiff's Access to Law and exercise.

D. Award punitive damages in the following amounts:

1. \$ 20,000 each against Defendants LaBrowd, Lockhart and Mastrovilli;
2. \$ 10,000 each against Defendants LaBrowd and Mastrovilli;
3. \$ 20,000 each against Defendants LaBrowd and Lockhart.

: E. Frank Such other relief as it may appear the plaintiff is entitled.

Respectfully Submitted,  
Mr. Duran Irvin (Pro Se.),  
Mr. Duran Irvin (Pro Se.),  
25 - Braddock St.,  
Boston, Ma. 02113.

Dated, 12-20-03